



4410-15

## DEPARTMENT OF JUSTICE

### **Notice of Lodging of Proposed Consent Decree under The Clean Air Act, Comprehensive Environmental Response, Compensation, and Liability Act, Emergency Planning and Community Right-To-Know Act, Resource Conservation and Recovery Act, and Clean Water Act**

On June 25, 2019, the Department of Justice lodged a proposed consent decree with the United States District Court for the Eastern District of Michigan in the lawsuit entitled *United States v. Dow Silicones Corporation*, Civil Action No. 19-cv-11880. The consent decree addresses alleged violations of several federal environmental laws at a facility in Midland, Michigan operated by Dow Silicones Corporation (“DSC”).

The complaint alleges, *inter alia*, that DSC has violated the following laws: (1) the Clean Air Act (“CAA”), by failing to implement a facility-wide leak detection and repair program, and failing to control emissions of hazardous air pollutants and volatile organic compounds; (2) the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), and the Emergency Planning and Community Right-To-Know Act (“EPCRA”), by failing to report releases of hazardous substances in a timely manner; (3) the Resource Conservation and Recovery Act (“RCRA”), by failing to characterize hazardous waste properly, and by failing to inspect and maintain hazardous waste secondary containment areas adequately; and (4) the Clean Water Act (“CWA”), by failing to comply with the terms and conditions of DSC’s National Pollutant Discharge Elimination System permit.

The consent decree requires, *inter alia*, that DSC: (1) address CAA violations by implementing a facility-wide leak detection and repair program and a CAA compliance plan to remedy violations of the national emissions standards for hazardous air pollutants disclosed by DSC; (2) address RCRA violations by identifying and re-characterizing all hazardous waste

streams at the facility, and coating all secondary containment systems for the tanks with an impervious liner or monitoring the systems more frequently; (3) address CWA violations by performing hydraulic capacity and pollutant monitoring studies to evaluate deficiencies in current stormwater management and discharge monitoring, and amending its stormwater pollution prevention plan to reflect enhanced monitoring measures; and (4) address EPCRA/CERCLA violations by revising release reporting and training policies and conducting root cause analyses of releases.

The consent decree would also require that DSC pay a civil penalty of \$4.55 million, and perform a package of supplemental environmental projects at an estimated cost of \$1.6 million, including monitoring connectors and upgrading and replacing pumps and agitators, which should reduce volatile organic compound emissions, and performing lead abatement projects to protect children from lead-based paint hazards in the Midland area.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Principal Deputy Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States v. Dow Silicones Corporation*, D.J. Ref. No. 90-5-2-1-10469 and 90-5-2-1-10469/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Principal Deputy Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>.

We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

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**Randall M. Stone,**  
*Acting Assistant Section Chief,*  
*Environmental Enforcement Section,*  
*Environment and Natural Resources Division.*

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